

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72386; File No. SR-BX-2014-031)

June 13, 2014

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Fee Schedule under Exchange Rule 7018(a) with Respect to Transactions in Securities Priced at \$1 per Share or More

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 6, 2014, NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule under Exchange Rule 7018(a) with respect to transactions in securities priced at \$1 per share or more.

The text of the proposed rule change is also available on the Exchange’s website at <http://nasdaqomxbx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing three changes to its fees and rebates applicable to transactions in securities priced at \$1 or more under BX Rule 7018(a).

First, the Exchange proposes to increase for all members the credit for an order that executes against a midpoint pegged order from \$0 to \$0.0003 per share executed. Next, the Exchange proposes to create a new fee tier for members that add 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity per day of \$0.0024 per share executed.

The Exchange also proposes to lower one of the parameters for a member with (i) shares of liquidity provided and (ii) total shares of liquidity accessed and provided in all securities through one or more of its NASDAQ OMX BX Equities System market participant identifiers (“MPIDs”) that represent more than 0.35% (proposed to be lowered to 0.30%) and 0.45%, respectively, of consolidated volume³ (“Consolidated Volume”) during the month.

The Exchange believes that the proposed price cut for taking midpoint liquidity will encourage firms to access more resting midpoint liquidity before routing to other destinations for price improvement opportunities. Additionally, the Exchange believes that the proposed new tier for non-displayed liquidity will encourage additional liquidity adding activity from non-display participants. Also, relaxing the standard to qualify as Qualified Market Maker (“QMM”) (Tier

³ Consolidated Volume is the consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities. See BX Rule 7018(a)(1).

1) will enable more firms to be able to avail themselves of the more advantageous QMM credits and overall pricing.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and Sections 6(b)(4) and (b)(5) of the Act,⁵ in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that the Exchange operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed rule changes, in part, are reflective of the Exchange's ongoing efforts to use rebates and discounted execution fees to attract orders that the Exchange believes will improve market quality. Generally, the Exchange seeks to provide members with discounts that they deem helpful, and to eliminate those that they do not. By offering a credit for members that take liquidity at the midpoint and by offering reduced execution fees for members that add a certain level of non-displayed shares per day, the Exchange believes it will be able to further promote these goals by providing better targeted incentives for market participants. Also, relaxing the standard to qualify as QMM (Tier 1) will enable more firms to be able to avail themselves of the more advantageous QMM credits and overall pricing. Each of the proposed changes is a pro-competitive price reduction designed to enhance the Exchange's position in the marketplace and broaden the execution opportunities for BX members.

Furthermore, the proposed rule changes are consistent with statutory requirements, as the proposed rule changes discussed herein are not unfairly discriminatory, do not place an

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4), (5).

unnecessary burden on competition, and represent an equitable allocation of fees for the reasons set forth below.

The proposed credit increase of \$0 to \$0.0003 per share executed for orders that execute against a midpoint pegged order is consistent with an equitable allocation of fees and is not unfairly discriminatory because this rebate applies uniformly across all members. The Exchange believes that this credit will incentivize members to execute against midpoint liquidity and this, in turn, will lead to an increase in price improvement liquidity and price improvement generally benefits the investing public. Also, it is reasonable and equitable because it reflects the availability of what is in effect a price reduction for all members that execute against a midpoint pegged order.

Additionally, the proposed rule change to create a new tier for members that add 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity per day of \$0.0024 per share executed is consistent with an equitable allocation of fees and is not unfairly discriminatory because the Exchange believes that this new tier will incentivize members to add more non-displayed shares and this, in turn, will lead to an increase in price improvement liquidity and price improvement generally benefits the investing public and BX members have an equal opportunity to avail themselves of this tier should they desire to do so. It is reasonable in that it affects similarly situated members in the same way and because it encourages additional liquidity adding activity from participants that want to add non-displayed liquidity.

Also, the proposed rule change to relax the standard to qualify as QMM (Tier 1) by modifying one of the parameters for a member with (i) shares of liquidity provided and (ii) total shares of liquidity accessed and provided in all securities through one or more of its NASDAQ OMX BX Equities MPIDs that represent more than 0.35% (proposed to be lowered to 0.30%)

and 0.45%, respectively, of Consolidated Volume during the month is consistent with an equitable allocation of fees and is not unfairly discriminatory because the Exchange believes that this will enable more firms to be able to avail themselves of the more advantageous QMM credits and overall pricing should they wish to pursue this opportunity to reduce trading costs, and because the opportunity will apply uniformly across all members. It is reasonable in that it affects similarly situated firms in the same way and because it encourages firms to take advantage of the more advantageous QMM credits and overall pricing.

The proposed pricing changes are, in part, reflective of BX's ongoing efforts to use responsive pricing to attract orders that BX believes will improve market quality.

Finally, BX notes that it operates in a highly competitive market in which market participants can easily and readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities to be insufficient. In such an environment, BX must continually adjust its fees or rebates to remain competitive with other exchanges. BX believes that the proposed rule changes reflect this very competitive environment because the proposed rule changes are designed to ensure that the charges and credits for participation on BX reflect its desire to attract order flow that improves the market for all participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.⁶ BX notes that it operates in a highly competitive market in which market participants can readily favor over 40 different competing exchanges and alternative trading systems if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other

⁶ 15 U.S.C. 78f(b)(8).

venues to be more favorable. In such an environment, BX must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, BX believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, the increase to the credit for an order that executes against a midpoint pegged order and the new tier for members that add 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity per day, plus the easing of the standards to qualify as QMM (Tier 1) enhances the Exchange's competitiveness by introducing a credit for some and reducing fees for others. Moreover, because there are numerous competitive alternatives to the use of the Exchange, it is likely that BX will lose market share as a result of the changes if they are unattractive to market participants. Accordingly, BX does not believe that the proposed rule changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and paragraph (f) of Rule 19b-4⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest,

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f).

for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-BX-2014-031 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2014-031. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method.

The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be

available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2014-031, and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).